



General Assembly

Substitute Bill No. 5470

February Session, 2010

* ____HB05470GAE__032410__ *

***AN ACT CONCERNING THE STATE ELECTIONS ENFORCEMENT
COMMISSION AND CAMPAIGN TREASURERS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 9-7b of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) The State Elections Enforcement Commission shall have the
4 following duties and powers:

5 (1) To make investigations on its own initiative or with respect to
6 statements filed with the commission by the Secretary of the State or
7 any town clerk, or upon written complaint under oath by any
8 individual, with respect to alleged violations of any provision of the
9 general statutes relating to any election or referendum, any primary
10 held pursuant to section 9-423, 9-425 or 9-464 or any primary held
11 pursuant to a special act, and to hold hearings when the commission
12 deems necessary to investigate violations of any provisions of the
13 general statutes relating to any such election, primary or referendum,
14 and for the purpose of such hearings the commission may administer
15 oaths, examine witnesses and receive oral and documentary evidence,
16 and shall have the power to subpoena witnesses under procedural
17 rules the commission shall adopt, to compel their attendance and to
18 require the production for examination of any books and papers which
19 the commission deems relevant to any matter under investigation or in

20 question. In connection with its investigation of any alleged violation
21 of any provision of chapter 145, or of any provision of section 9-359 or
22 section 9-359a, the commission shall also have the power to subpoena
23 any municipal clerk and to require the production for examination of
24 any absentee ballot, inner and outer envelope from which any such
25 ballot has been removed, depository envelope containing any such
26 ballot or inner or outer envelope as provided in sections 9-150a and 9-
27 150b and any other record, form or document as provided in section 9-
28 150b, in connection with the election, primary or referendum to which
29 the investigation relates. In case of a refusal to comply with any
30 subpoena issued pursuant to this subsection or to testify with respect
31 to any matter upon which that person may be lawfully interrogated,
32 the superior court for the judicial district of Hartford, on application of
33 the commission, may issue an order requiring such person to comply
34 with such subpoena and to testify; failure to obey any such order of the
35 court may be punished by the court as a contempt thereof. In any
36 matter under investigation which concerns the operation or inspection
37 of or outcome recorded on any voting machine, the commission may
38 issue an order to the municipal clerk to impound such machine until
39 the investigation is completed;

40 (2) To levy a civil penalty not to exceed (A) two thousand dollars
41 per offense against any person the commission finds to be in violation
42 of any provision of chapter 145, part V of chapter 146, part I of chapter
43 147, chapter 148, section 7-9, section 9-12, subsection (a) of section 9-17,
44 section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-23h,
45 9-23j to 9-23o, inclusive, 9-23r, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-
46 40a, 9-42, 9-43, 9-50a, 9-56, 9-59, 9-168d, 9-170, 9-171, 9-172, 9-232i to 9-
47 232o, inclusive, 9-404a to 9-404c, inclusive, 9-409, 9-410, 9-412, 9-436, 9-
48 436a, 9-453e to 9-453h, inclusive, 9-453k or 9-453o, (B) two thousand
49 dollars per offense against any town clerk, registrar of voters, an
50 appointee or designee of a town clerk or registrar of voters, or any
51 other election or primary official whom the commission finds to have
52 failed to discharge a duty imposed by any provision of chapter 146 or
53 147, (C) two thousand dollars per offense against any person the

54 commission finds to have (i) improperly voted in any election, primary
55 or referendum, and (ii) not been legally qualified to vote in such
56 election, primary or referendum, or (D) two thousand dollars per
57 offense or twice the amount of any improper payment or contribution,
58 whichever is greater, against any person the commission finds to be in
59 violation of any provision of chapter 155 or 157. The commission may
60 levy a civil penalty against any person under subparagraph (A), (B),
61 (C) or (D) of this subdivision only after giving the person an
62 opportunity to be heard at a hearing conducted in accordance with
63 sections 4-176e to 4-184, inclusive. In the case of failure to pay any such
64 penalty levied pursuant to this subsection within thirty days of written
65 notice sent by certified or registered mail to such person, the superior
66 court for the judicial district of Hartford, on application of the
67 commission, may issue an order requiring such person to pay the
68 penalty imposed and such court costs, state marshal's fees and
69 attorney's fees incurred by the commission as the court may
70 determine. Any civil penalties paid, collected or recovered under
71 subparagraph (D) of this subdivision for a violation of any provision of
72 chapter 155 applying to the office of the Treasurer shall be deposited
73 on a pro rata basis in any trust funds, as defined in section 3-13c,
74 affected by such violation;

75 (3) (A) To issue an order requiring any person the commission finds
76 to have received any contribution or payment which is prohibited by
77 any of the provisions of chapter 155 or 157, after an opportunity to be
78 heard at a hearing conducted in accordance with the provisions of
79 sections 4-176e to 4-184, inclusive, to return such contribution or
80 payment to the donor or payor, or to remit such contribution or
81 payment to the state for deposit in the General Fund or the Citizens'
82 Election Fund, whichever is deemed necessary to effectuate the
83 purposes of chapter 155 or 157, as the case may be;

84 (B) To issue an order when the commission finds that an intentional
85 violation of any provision of chapter 155 or 157 has been committed,
86 after an opportunity to be heard at a hearing conducted in accordance
87 with sections 4-176e to 4-184, inclusive, which order may contain one

88 or more of the following sanctions: (i) Removal of a campaign
89 treasurer, deputy campaign treasurer or solicitor; (ii) prohibition on
90 serving as a campaign treasurer, deputy campaign treasurer or
91 solicitor, for a period not to exceed four years; and (iii) in the case of a
92 party committee or a political committee, suspension of all political
93 activities, including, but not limited to, the receipt of contributions and
94 the making of expenditures, provided the commission may not order
95 such a suspension unless the commission has previously ordered the
96 removal of the campaign treasurer and notifies the officers of the
97 committee that the commission is considering such suspension;

98 (C) To issue an order revoking any person's eligibility to be
99 appointed or serve as an election, primary or referendum official or
100 unofficial checker or in any capacity at the polls on the day of an
101 election, primary or referendum, when the commission finds such
102 person has intentionally violated any provision of the general statutes
103 relating to the conduct of an election, primary or referendum, after an
104 opportunity to be heard at a hearing conducted in accordance with
105 sections 4-176e to 4-184, inclusive;

106 (D) To issue an order to enforce the provisions of the Help America
107 Vote Act, P.L. 107-252, as amended from time to time, as the
108 commission deems appropriate;

109 (E) To issue an order following the commission's determination of
110 the right of an individual to be or remain an elector when such
111 determination is made (i) pursuant to an appeal taken to the
112 commission from a decision of the registrars of voters or board of
113 admission of electors under section 9-31l, or (ii) following the
114 commission's investigation pursuant to subdivision (1) of this
115 subsection;

116 (F) To issue a cease and desist order for violation of any general
117 statute or regulation under the commission's jurisdiction and to take
118 reasonable actions necessary to compel compliance with such statute
119 or regulation;

120 (4) To issue an order to a candidate committee that receives moneys
121 from the Citizens' Election Fund pursuant to chapter 157, to comply
122 with the provisions of chapter 157, after an opportunity to be heard at
123 a hearing conducted in accordance with the provisions of sections 4-
124 176e to 4-184, inclusive;

125 (5) To inspect or audit at any reasonable time and upon reasonable
126 notice the accounts or records of any campaign treasurer or principal
127 campaign treasurer, as required by chapter 155 or 157 and to audit any
128 such election, primary or referendum held within the state; provided,
129 (A) (i) not later than two months preceding the day of an election at
130 which a candidate is seeking election, the commission shall complete
131 any audit it has initiated in the absence of a complaint that involves a
132 committee of the same candidate from a previous election, and (ii)
133 during the two-month period preceding the day of an election at
134 which a candidate is seeking election, the commission shall not initiate
135 an audit in the absence of a complaint that involves a committee of the
136 same candidate from a previous election, and (B) the commission shall
137 not audit any caucus, as defined in subdivision (1) of section 9-372;

138 (6) To attempt to secure voluntary compliance, by informal methods
139 of conference, conciliation and persuasion, with any provision of
140 chapter 149, 151 to 153, inclusive, 155, 156 or 157 or any other
141 provision of the general statutes relating to any such election, primary
142 or referendum;

143 (7) To consult with the Secretary of the State, the Chief State's
144 Attorney or the Attorney General on any matter which the commission
145 deems appropriate;

146 (8) To refer to the Chief State's Attorney evidence bearing upon
147 violation of any provision of chapter 149, 151 to 153, inclusive, 155, 156
148 or 157 or any other provision of the general statutes pertaining to or
149 relating to any such election, primary or referendum;

150 (9) To refer to the Attorney General evidence for injunctive relief
151 and any other ancillary equitable relief in the circumstances of

152 subdivision (8) of this subsection. Nothing in this subdivision shall
153 preclude a person who claims that he is aggrieved by a violation of any
154 provision of chapter 152 or any other provision of the general statutes
155 relating to referenda from pursuing injunctive and any other ancillary
156 equitable relief directly from the Superior Court by the filing of a
157 complaint;

158 (10) To refer to the Attorney General evidence pertaining to any
159 ruling which the commission finds to be in error made by election
160 officials in connection with any election, primary or referendum. Those
161 remedies and procedures available to parties claiming to be aggrieved
162 under the provisions of sections 9-323, 9-324, 9-328 and 9-329a shall
163 apply to any complaint brought by the Attorney General as a result of
164 the provisions of this subdivision;

165 (11) To consult with the United States Department of Justice and the
166 United States Attorney for Connecticut on any investigation pertaining
167 to a violation of this section, section 9-12, subsection (a) of section 9-17
168 or section 9-19b, 9-19e, 9-19g, 9-19h, 9-19i, 9-20, 9-21, 9-23a, 9-23g, 9-
169 23h, 9-23j to 9-23o, inclusive, 9-26, 9-31a, 9-32, 9-35, 9-35b, 9-35c, 9-40a,
170 9-42, 9-43, 9-50a, 9-56 or 9-59 and to refer to said department and
171 attorney evidence bearing upon any such violation for prosecution
172 under the provisions of the National Voter Registration Act of 1993,
173 P.L. 103-31, as amended from time to time;

174 (12) To inspect reports filed with town clerks pursuant to chapter
175 155 and refer to the Chief State's Attorney evidence bearing upon any
176 violation of law therein if such violation was committed knowingly
177 and wilfully;

178 (13) To intervene in any action brought pursuant to the provisions
179 of sections 9-323, 9-324, 9-328 and 9-329a upon application to the court
180 in which such action is brought when in the opinion of the court it is
181 necessary to preserve evidence of possible criminal violation of the
182 election laws;

183 (14) To adopt and publish regulations pursuant to chapter 54 to

184 carry out the provisions of section 9-7a, this section, and chapters 155
185 and 157; to issue upon request and publish advisory opinions in the
186 Connecticut Law Journal upon the requirements of chapters 155 and
187 157, and to make recommendations to the General Assembly
188 concerning suggested revisions of the election laws;

189 (15) To the extent that the State Elections Enforcement Commission
190 is involved in the investigation of alleged or suspected criminal
191 violations of any provision of the general statutes pertaining to or
192 relating to any such election, primary or referendum and is engaged in
193 such investigation for the purpose of presenting evidence to the Chief
194 State's Attorney, the State Elections Enforcement Commission shall be
195 deemed a law enforcement agency for purposes of subdivision (3) of
196 subsection (b) of section 1-210, provided nothing in this section shall be
197 construed to exempt the State Elections Enforcement Commission in
198 any other respect from the requirements of the Freedom of Information
199 Act, as defined in section 1-200;

200 (16) To enter into such contractual agreements as may be necessary
201 for the discharge of its duties, within the limits of its appropriated
202 funds and in accordance with established procedures;

203 (17) To provide the Secretary of the State with notice and copies of
204 all decisions rendered by the commission in contested cases, advisory
205 opinions and declaratory judgments, at the time such decisions,
206 judgments and opinions are made or issued;

207 (18) To receive and determine complaints filed under the Help
208 America Vote Act, P.L. 107-252, as amended from time to time, by any
209 person who believes there is a violation of any provision of Title III of
210 P.L. 107-252, as amended. Any complaint filed under this subdivision
211 shall be in writing, notarized and signed and sworn by the person
212 filing the complaint. At the request of the complainant, there shall be a
213 hearing on the record, conducted in accordance with sections 4-167e to
214 4-184, inclusive. The commission shall make a final determination with
215 respect to a complaint prior to the expiration of the ninety-day period

216 beginning on the date the complaint is filed, unless the complainant
 217 consents to a longer period for making such determination. If the
 218 commission fails to meet the applicable deadline under this
 219 subdivision with respect to a complaint, the commission shall resolve
 220 the complaint within sixty days after the expiration of such ninety-day
 221 period under an alternative dispute resolution procedure established
 222 by the commission;

223 (19) To notify each campaign treasurer of a committee of any change
 224 to any provision of title 9 or to any regulation adopted pursuant to
 225 said title, any special act or public act concerning elections, or any
 226 interpretation by the commission of any such provision, regulation,
 227 special or public act;

228 (20) To respond, not later than ten business days after receipt of a
 229 written question that may be electronically transmitted from a
 230 campaign treasurer of a committee or from a candidate, with a written
 231 explanation that may be electronically transmitted to such treasurer or
 232 candidate, if so requested by such treasurer or candidate.

233 (b) In the case of a refusal to comply with an order of the
 234 commission issued pursuant to subdivision (3) or (4) of subsection (a)
 235 of this section, the superior court for the judicial district of Hartford,
 236 on application of the commission, may issue a further order to comply.
 237 Failure to obey such further order may be punished by the court as a
 238 contempt thereof.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>from passage</i>	9-7b
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Statement of Legislative Commissioners:

Corrected retroactive effective date to provide that section 1 be effective from passage.

GAE *Joint Favorable Subst.*